

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiffs,

v.

LARRY RICHNER,

Defendant.

No. C06-1676MJP

ORDER DENYING PLAINTIFF'S
MOTION TO REDUCE CIVIL
PENALTY TO JUDGMENT

This matter comes before the Court on Plaintiff's Motion to Reduce Civil Penalty to Judgment. (Dkt. No. 8.) Having considered Plaintiff's motion, Defendant's response (Dkt. No. 10), Plaintiff's reply (Dkt. No. 11), and all documents submitted in support thereof, the Court DENIES Plaintiff's motion.

This case is a civil action brought by the United States to reduce to judgment and recover a civil penalty assessed against Defendant Richner by the Environmental Protection Agency (EPA) for Clean Water Act violations. According to the documentation provided, on May 8, 2003, the EPA issued a penalty decision against Mr. Richner in the amount of \$5,500.00. (Dkt. No. 8, Ex. B.) Mr. Richner did not appeal the decision, and on August 29, 2003, that decision became a final order. (*Id.*, Ex. C.) The EPA unsuccessfully attempted to collect the civil penalty from Mr. Richner. (*Id.*, Ex. D.) Pursuant to 33 U.S.C. § 1319(g)(9), the United States brought a civil action in this court to recover the amount assessed, plus interest and a non-payment penalty. In addition, the United States seeks statutorily authorized attorney's fees. See 33 U.S.C. § 1319(g)(9).

1 Defendant Richner does not oppose the remedy sought by the government. (Def.'s Resp.;
2 Dkt. No. 11-2, Chan Decl. ¶ 4.) Nevertheless, the Court cannot grant Plaintiff's motion. First,
3 Plaintiff provided the Court and the parties with a proposed order that contains a calculation error.
4 The proposed order states that judgment will be entered against Defendant Richner in the amount of
5 \$7,132.82. But Plaintiff actually requests that \$9,466.30 be adjudged against Defendant. The Court
6 cannot award the higher amount to Plaintiff without assurance that Defendant has been properly
7 notified of the actual amount to be adjudged. The Court therefore DENIES Plaintiff's motion as to
8 the civil penalty, interest, and non-payment penalty without prejudice to the United States refiling its
9 motion after correcting the calculation errors and giving Defendant proper notice of the changes.

10 Second, the Court DENIES Plaintiff's request for attorney's fees. Counsel for the United
11 States, Priscilla Chan, spent more than seventeen (out of a total of 20.5) hours on this case before
12 contacting Defendant's counsel. (See Dkt. No. 9, Chan Decl., Ex. A; Dkt. No. 11-2, Chan Decl. ¶
13 2.) Ten of those hours accrued prior to Plaintiff filing its complaint. Given the fact that Defendant
14 does not oppose the remedy sought, some, if not all, of these fees could have been avoided had Ms.
15 Chan contacted Defendant's counsel earlier. In addition, the amount of time spent on some of the
16 activities listed in Ms. Chan's fee request appears to be excessive. For these reasons, Plaintiff's
17 request for attorney's fees is DENIED.

18 The clerk is directed to send copies of this order to all counsel of record.

19 Filed this 15th day of May, 2007.

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22 Marsha J. Pechman
23 United States District Judge
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